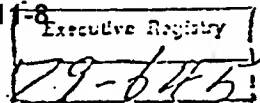




Approved For Release 2003/05/23 : CIA-RDP83-00957R000100080011-8

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503



OFFICE OF FEDERAL  
PROCUREMENT POLICY

MAR 7 1979

OFPP POLICY LETTER NO. 79-1

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Implementation of Section 15(k) of the Small Business Act, as amended: Office of Small and Disadvantaged Business Utilization

On October 24, 1978, President Carter signed P.L. 95-507, amending the Small Business Act and the Small Business Investment Act of 1958. Section 221 of P.L. 95-507 amends Section 15(k) of the Small Business Act, 15 U.S.C. 637, to require that each Federal agency having procurement powers establish an Office to be known as the "Office of Small and Disadvantaged Business Utilization."

The purpose of this Policy Letter is to provide uniform policy guidance to the affected procuring activities on the organization and functions of that Office. Clearly, there will need to be special variations in administrative composition and procedures to accommodate the peculiar organizational arrangements of each agency. Nevertheless, the departments and agencies exercising procurement powers shall observe the following policies in implementing Section 15(k).

1. The primary function of the Office of Small and Disadvantaged Business Utilization shall be to implement and administer the programs under Sections 8 and 15 of the Small Business Act, as amended. Other duties consistent with the Government's small and disadvantaged business programs may be assigned to the Office.
2. The Director shall be a full-time employee whose full-time function will be to supervise the operations of the Office. He shall be responsible only to, and report directly to, the head of the agency or his deputy, i.e., the second ranking person in the agency.
3. The Director shall have supervisory authority over personnel of headquarters and the field of the agency when such personnel are performing duties for which the Office of Small and Disadvantaged Business has responsibility.

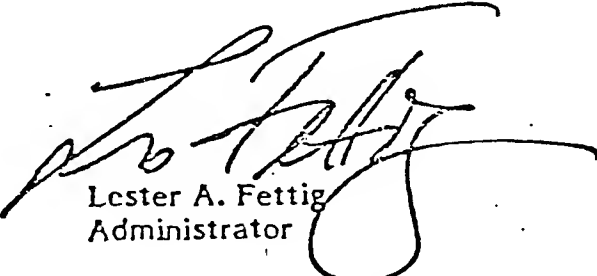
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4. The position description of the Director should reflect the management role as well as other operational responsibilities. The position description should include, but not be limited to, the following items:
  - o Items listed in Section 15(k):
    - .. Responsibility for the implementation and execution of the functions and duties under Sections 8 and 15 of the Small Business Act, as amended, which relate to the agency,
    - .. Assigning a small business technical adviser to each office to which the SBA has assigned a procurement center representative,
      - ... who shall be a full-time employee of the procuring activity and shall be well qualified, technically trained and familiar with the supplies or services purchased at the activity, and
      - ... whose principal duty shall be to assist the SBA SBA procurement center representative in his duties and functions relating to Sections 8 and 15 of the Small Business Act, as amended, and
    - .. cooperate, and consult on a regular basis, with SBA with respect to carrying out the functions and duties of Sections 8 and 15 of the Small Business Act, as amended.
  - o Developing systematic procedures for insuring the effective execution of the Small Business Act, as amended.
  - o Recommending agency goals.
  - o Training and education of agency staff whose duties and functions relate to Sections 8 and 15.
  - o Conducting outreach, liaison, source listings, and seminars for small and disadvantaged business.

- o Publishing of required information brochures and documents.
- o Interagency liaison of program procurement activities relating to small and disadvantaged business.
- o Oversight of the implementation of Section 223(a) of P.L. 95-507.
  - .. for any contract to be let by any Federal agency, such agency shall provide to any small business concern upon its request;
    - (1) a copy of bid sets and specifications with respect to such contract;
    - (2) the name and telephone number of an employee of such agency to answer questions with respect to such contract; and
    - (3) adequate citations to each major Federal law or agency rule with which such business concern must comply in performing such contract.

The departments and agencies should report to OFPP within 90 days on the steps taken to implement the provisions of this Policy Letter. This will include (1) the date the Office was established, (2) the name of the Director, (3) organizational chart showing his reporting lines, (4) the extent of his supervisory authority including the number of people he supervises (5) program plans including scope of his duties and responsibilities, and (6) the budget for the Office.



Lester A. Fettig  
Administrator



Washington, D.C. 20505

Executive Registry

77-28491

17 MAY 1979

Mr. James D. Currie  
Acting Administrator  
Office of Federal Procurement Policy  
Office of Management and Budget  
Executive Office of the President  
Washington, D.C. 20503

Dear Mr. Currie:

The Central Intelligence Agency (CIA) has reviewed OFPP Policy Letter No. 79-1, on implementation of Section 15 (k) of the Small Business Act, as amended: Office of Small and Disadvantaged Business Utilization, dated March 7, 1979.

Largely because of the Director of Central Intelligence's statutory responsibility to protect against the disclosure of intelligence sources and intelligence methods -- 50 U.S.C.A. 403(d)(3) (Section 102 of the National Security Act of 1947), the CIA has developed unique methods of handling its procurement requirements. In many cases the products delivered under CIA contracts are classified because they involve intelligence collection methods. In many other cases while neither the products nor services delivered are in themselves sensitive, the contractual association between CIA and the contractor must be classified. As an example of the latter, commercially available, off-the-shelf equipment to be utilized in a foreign country can be traced back to CIA through serial numbers, shipping documents, invoices, and maintenance agreements if the contractor were known to be providing equipment to CIA. In order to protect against this, we classify the relationship between the contracting parties.

The necessity for CIA's unique procurement procedures has been accepted by cognizant oversight bodies, has been an established part of our internal regulations since our very beginning, and has been reviewed and accepted by various Congressional committees with a need-to-know. Funding for these types of procurements is considered to be "... for objects of a confidential, extraordinary, or emergency nature ..." as defined in Section 8(b) of our CIA Act (50 U.S.C.A. 403j). No third party privity is permitted on such transactions.

Because of the statutory authorities and responsibilities levied upon the DCI and the resultant fact that no third party privity is available for CIA procurement actions, CIA has never formally implemented

a Small Business Act program. It does not conduct interagency liaison for procurement activities relating to small and disadvantaged business. It has no personnel who have as their sole responsibility the handling of small business matters; it does not conduct outreach, liaison, source listings, or seminars for small business, and does not have an Office of Small and Disadvantaged Business Utilization. While these various assets for execution of procurement from small and disadvantaged businesses are not existent within CIA, I hasten to add that CIA is committed to the spirit of small and disadvantaged business legislation and has many activities in process. Examples include liaison with the Office of Federal Contract Compliance to assure that contractors receiving contracts in excess of \$1 million are in compliance with equal employment opportunity legislation, inclusion in all of our contracts of mandatory contract clauses relating either to small or minority business, distribution to our centralized procurement division of available source lists of minority contractors, and maintenance of records on contracts with small or disadvantaged contractors. In addition to these activities we have participated in various meetings, such as the seminar sponsored by the Joint Economic Committee of the Congress on Measuring Progress in Female and Minority Federal Contracting in 1977.

CIA's total procurement budget (classified) is small as is our complement of procurement personnel. Without the organizational structure required by the aforementioned policy letter, we placed 37 percent of our procurement actions and 26 percent of our procurement dollars with small business in Fiscal Year 1978. We believe this performance compares favorably with other agencies. Our records of contracting with minority business are currently being updated, but I believe the results will not be as favorable in that area as for small business. I have directed that additional effort be devoted to this area.

In conclusion, CIA will continue what I believe is an excellent record of contracting with small business and will strive for increased contract placement with minority business. While I support fully the policies of the Administration on small and disadvantaged business, CIA will not be able to formally implement the portions of P.L. 95-907 discussed in OFPP Policy Letter No. 79-1.

Sincerely,

/s/ Frank C. Carlucci

- Frank C. Carlucci

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OFFICE OF FEDERAL  
PROCUREMENT POLICY

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EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

SEP 1979

Executive Registry

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DD/A Registry

79-2976

Policy Letter 79-3

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

Subject: Goal Setting

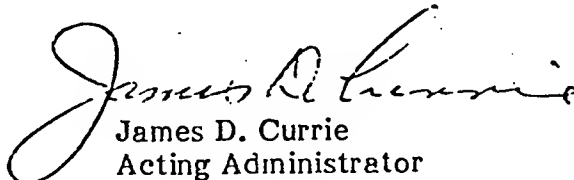
On October 24, 1978, the President signed into law Public Law 95-507 amending the Small Business Act and the Small Business Investment Act of 1958. Section 221 of Public Law 95-507 requires the head of each Federal agency after consultation with the Small Business Administration to establish realistic goals and report their achievement in awarding contracts of \$10,000 or more to small business concerns and to small business concerns owned and controlled by socially and economically disadvantaged individuals.

As provided in P.L. 95-507, the goals shall be jointly established by the Head of the Agency and SBA and whenever they fail to agree on established goals, the disagreement shall be submitted to the Administrator of the Office of Federal Procurement Policy for final determination.

The purpose of this Policy Letter is to transmit uniform policy guidance, set out in the attachment issued by the Small Business Administration, for establishing such goals.

This policy is effective immediately. For further information, contact:

Edward Odell, Deputy Director  
Office of Procurement and Technical Assistance  
Small Business Administration  
Washington, DC 20416  
(202) 653-6332

  
James D. Currie  
Acting Administrator

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U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

SEP 4 1979

OFFICE OF THE ADMINISTRATOR

AUG 31 1979

Mr. James D. Currie  
Acting Administrator  
Office of Federal Procurement Policy  
Office of Management and Budget  
Washington, D. C. 20503

Dear Mr. Currie:

Enclosed herewith is a policy directive to the various Federal agencies responsible for promulgating procurement directives. In accordance with discussions between our respective staffs personnel and in which I understand you participated, the enclosed document, when issued by the Office of Federal Procurement Policy as a directive, will serve to implement Section 221 of Public Law 95-507 which added new subsections to Section 15 of the Small Business Act.

Sincerely,

A. Vernon Weaver  
Administrator

Enclosures



GOALS FOR PROCUREMENT AWARDS TO  
SMALL AND SMALL DISADVANTAGED BUSINESSES

The head of each Federal agency having procurement powers shall submit to the Administrator of the Small Business Administration by the end of the first quarter of each fiscal year:

- (1) an estimate of the total dollar amount of all prime contracts having a value of \$10,000 or more to be awarded by the close of the current fiscal year;
- (2) a goal for prime contract awards valued at \$10,000 or more to be made to small business concerns during the current fiscal year expressed as a percentage of the estimated total dollar amount of prime contracts to be awarded by the close of the current fiscal year;
- (3) a goal for prime contract awards having a value of \$10,000 or more to be made to the Small Business Administration under the authority of Section 8(a) of the Small Business Act as amended by Public Law 95-507 expressed as a percentage of awards to be made to small business in (2) above;
- (4) a goal for prime contract awards having a value of \$10,000 or more to be made to small concerns owned and controlled by socially and economically disadvantaged individuals under authority other than Section 8(a) of the Small Business Act expressed as a percentage of awards to be made to small business in (2) above;
- (5) The combined goals for prime contract awards in (3) and (4) above expressed as a percentage of the estimated total dollar amount of prime contracts to be awarded by the close of the current fiscal year;
- (6) an estimate of the total dollar amount of the prime contracts to be awarded during the current fiscal year which will require the prime contractor to establish goals for subcontract awards to small business and to small businesses owned and controlled by individuals who are socially and economically disadvantaged;
- (7) a goal for subcontracts to be awarded by prime contractors to small business in order to meet contractually established goals expressed as a percentage of (6) above;
- (8) a goal for subcontracts to be awarded by prime contractors to small businesses owned and controlled by socially and economically disadvantaged individuals in order to meet contractually established goals expressed as a percentage of (6) above; and,
- (9) a brief outline to the methods, processes and data used to



establish the goals in paragraphs (2), (3), (4), (6), (7), and (8) above.

The Administrator of the Small Business Administration shall, within 30 days of receipt of the goals, respond to each agency expressing agreement or indicating reasons for disagreement if interagency consultation fails to resolve differences. Such cases of disagreement shall be submitted by the Administrator of the Small Business Administration to the Administrator of the Office of Federal Procurement Policy for final determination.

#### REPORTS ON AGENCY ACHIEVEMENTS AGAINST ESTABLISHED GOALS

- A. The head of each Federal agency having procurement powers shall report annually to the Administrator of the Small Business Administration on the extent of participation by small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals in procurement contracts of the agency valued at \$10,000 or more. Additionally, such reports shall account for achievements against previously established goals for the awarding by prime contractors of subcontracts against contractually established goals goal (1) small small business concerns and (2) small business concerns owned and controlled by individuals who are socially and economically disadvantaged. The foregoing reports shall be submitted no later than the end of the first quarter of the fiscal year following the fiscal year being covered by the report. Each report shall indicate:

(1) the total dollar amount of all prime contracts awarded having a value of \$10,000 or more;

(2) the percentage of (1) above awarded to small business concerns;

(3) the percentage of (1) and (2) above awarded to small concerns owned and controlled by socially and economically disadvantaged individuals. This should be broken down to indicate (a) the percentage awarded to the Small Business Administration under the authority of Section 8(a) of the Small Business Act and (b) awarded to small concerns owned by individuals who are socially and economically disadvantaged under authority other than Section 8(a) of the Small Business Act;

(4) the total dollar amount of prime contracts awarded on contracts requiring the prime contractor to establish contractually covered goals for awarding subcontracts to (a) small business and (b) small businesses owned and controlled by individuals who are socially and economically disadvantaged;

(5) the percentage of (4) above awarded to small business concerns;

(6) the percentage of (4) and (5) above awarded to small business concerns owned and controlled by individuals who are socially and economically disadvantaged;

(7) a comparison of achievements against established goals with explanatory comments concerning the differences.

- B. The Administrator of the Small Business Administration shall submit to the Select Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives information obtained from such reports, together with appropriate comments:

OL/pms

28 SEP 1979

MEMORANDUM FOR: Deputy Director of Central Intelligence

VIA: Deputy Director for Administration  
Comptroller

FROM: James H. McDonald  
Director of Logistics

SUBJECT: Goal Setting

- REFERENCES:
- A. OFPP Policy Letter 79-3, dated 7 September 1979, Subject: Goal Setting (ER 79-3849/1, DDA 79-2976)
  - B. OFPP Policy Letter No. 79-1, dated March 7, 1979, Subject: Implementation of Section 15(k) of the Small Business Act, as amended: Office of Small and Disadvantaged Business Utilization (ER 79-645)
  - C. Letter to Mr. Currie, Acting Administrator, OFPP, from DDCI, dated 17 May 1979 (ER 79-3849/A, DDA 79-1336/1, COMPT 79-0346)

1. Reference A cites a requirement of PL 95-507, which amended the Small Business Act and the Small Business Investment Act of 1958, that the head of each Federal agency, after consultation with the Small Business Administration (SBA), establish realistic goals and report their achievement in awarding contracts of \$10,000 or more to small business concerns and to small business concerns owned and controlled by socially and economically disadvantaged individuals. Reference B was Office of Federal Procurement Policy's (OFPP) initial policy issuance on PL 95-507 and set forth various requirements of the new law. Reference C provided the Central Intelligence Agency's (CIA) position on PL 95-507.

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SUBJECT: Goal Setting

2. In the Reference C correspondence it was explained that the Director of Central Intelligence's statutory responsibility to protect against the disclosure of intelligence sources and methods, 50 U.S.C.A. 403(d)(3), (Section 102 of the National Security Act of 1947), has resulted in unique methods of handling our procurement requirements. We further described that funding for most of our procurements is considered to be "... for objects of a confidential, extraordinary, or emergency nature. . . ." and defined in Section 8(b) of our CIA Act (50 U.S.C.A. 403j) and that no third party privity is permitted on such transactions. That same correspondence stated that "... CIA will not be able to implement the portions of PL 95-507 discussed in OFPP Policy Letter No. 79-179-1."

3. Based upon the foregoing, it is recommended that we take no action with regard to Reference A. If, at some future time, the SBA should contact CIA with regard to the subject of goal setting for contract awards to small business, and to small business concerns owned and controlled by socially and economically disadvantaged individuals, we can advise the SBA of our position as set forth in Reference C.

/s/ James H. McDonald

James H. McDonald

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19-5347

NOV 21 1979

## MEMORANDUM TO HEADS OF DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Implementation of Public Law 95-507

Public Law 95-507, amendments to the Small Business Act and the Small Business Investment Act of 1958, was enacted October 24, 1978. Section 211 of the Act establishes a program for small and small socially and economically disadvantaged subcontractors under Federal prime contracts of \$500,000 or more (\$1,000,000 for construction).

Office of Federal Procurement Policy regulations implementing section 211 were published on April 20, 1979, and agency implementing regulations were published in the Federal Procurement Regulations (FPR) and the Defense Acquisition Regulation (DAR) on July 2, 1979, and July 27, 1979, respectively.

By letter dated October 19, 1979, in response to a Congressional inquiry, the Comptroller General stated his opinion that contracts of the requisite size awarded after the issuance of the FPR and DAR implementing regulations should have contained the section 211 subcontracting program provisions. He also stated his opinion that those contracts required to contain the subcontracting provisions, but awarded without those provisions, were "legally deficient." We believe that, although the implementing regulations technically were effective on July 2 and July 27, a reasonable time is required for their distribution and implementation through the system. However, it seems that in some cases the time for implementation has exceeded reasonable bounds. We understand that at the present time there are a substantial number of contracts and contract solicitations that should, but do not, contain required subcontracting provisions.

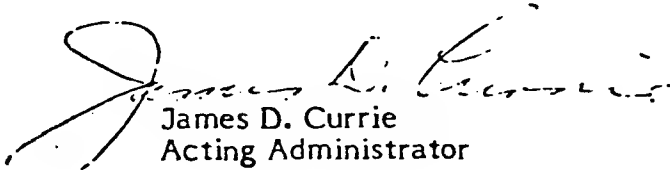
We recognize that Public Law 95-507 is a complex and difficult law to implement, and for that reason it merits special attention in each agency to assist contracting officers to comply with implementing regulations. Accordingly, I request each agency to review its contracts and contract

solicitations issued since the FPR and DAR implementing regulations were published, and:

- (1) amend all outstanding solicitations that should, but do not contain the subcontracting provisions, to include those provisions; and
- (2) where feasible, modify all contracts awarded that should, but do not, contain the subcontracting provisions, where modification to include the subcontracting provisions would lead to a greater utilization of small and small disadvantaged subcontractors.

So that we may evaluate the extent of non-compliance with the implementing regulations, and seek ways to avoid such problems in the future, I also request that each agency provide this Office by January 15, 1980, a report of (1) the number and dollar amount of contracts and solicitations requiring the subcontracting provisions that were issued without the provisions; and (2) the number and dollar amount of those subsequently modified to include the provisions.

Should you have any questions about this matter, contact Thomas F. Williamson, Associate Administrator for Acquisition Law, on 395-3455.

  
James D. Currie  
Acting Administrator